Duly entered for taxation Feb. 13, 1892.

Matt Ryocom - Auditor

Received for record Feb. 13, 1892, at 9 a.m. and duly recorded.

D. C. Filfillan
Recorder, Clay Co."

SUMMARY OF ARGUMENT

The Petition for the Writ of Certiorari to the Appellate Court of the State of Indiana reveals no basis for the granting of such a Writ.

ARGUMENT

Appellees respectfully direct the Court's attention to the factual situation that at no time in the proceedings in the case at Bar was there ever any question regarding any dispute or the question of interpreting or weighing of Church Doctrine. At each and every juncture of the proceedings, it was simply a question of law to determine the title to the real estate involved without reference to any of those sacred precincts within the Church wherein and whereupon it is not the prerogative of the Courts to pass or make judgment.

This Court has on several occasions stated with emphasis that it is not the function of this Court, nor of any civil court, to referee internal disputes regarding Church Doctrine, the most recent expression of which

is found in Presbyterian Church of the United States vs. Mary Elizabeth Blue Hull Memorial Presbyterian Church, 383 U. S. 440; 89 S. CT. 601; 21 L. ED. 2d 658, 1969.

The question of law raised by the Petitioner rests upon expressions in the Doctrine of the Church relative to the holding of the title to certain real estate. However, it is patent upon the record of this case that the Deed to the land in question was executed on the 24th day of December, A. D., 1891. The Petitioner did not come into being until November of 1946. The latest expression of Indiana law upon the question of the ownership of Church property is found in the case of The Indiana Annual Conference Corporation vs. Lemon, 131 NE Reporter 2d 781; 235 Ind. 248.

Judge Emmert, speaking for the Court upon the occasion of this decision stated in part:

> "However, it would seem that whatever authority the Superior Methodist Church may have for the real estate would depend upon the Church Discipline or Constitution and By-Laws provided at the time the Deeds were executed.
>
> It would be a denial of due process for the general assembly to attempt to divert title by subsequent legislative act, and it naturally follows that a superior Church organization could have no greater power than a sovereign legislature. A deed is generally held to be within the protection of the contract clause against impairment."

In quoting from Presbyterian Church vs. Mary Elizabeth Blue Hull Memorial Presbyterian Church, Supra, this Court stated:

> "It is obvious, however, that not every civil court decision as to property claimed by a religious organization jeopardizes values protected by the First Amendment. Civil Courts do not inhibit free exercise of religion merely by opening their doors to disputes involving Church property."

The gravamen of the Appellees' argument is that neither the First or the Fourteenth Amendments of the United States Constitution are brought into controversy in the simple process of determining the title to the real estate in question; and that the Petitioner cannot successfully by introducing his Church Discipline magnify and enlarge the question to make it one of Constitutional propensity, which in the mind of counsel in this instance they are attempting to do.

Indiana has held, and we believe properly that it is the proper function of civil courts and civil courts alone, to determine matters of law in determining the title to real estate. Such is not now, nor has it been at any time, the province of the Church officials.

The Indiana Annual Conference Corporation v. Lemon, 131 NE Reporter 2d 781; 235 Ind. 248.

Doughty, et al. v. Herr, May 18, 1933, 97 Ind. Appellate 427, 185 NE 657.

Counsel quotes because of the simplicity and applicability of its language, the Indiana case of Doughty, et al. vs. Herr, May 18, 1933, 97 Ind. Appellate 427, 185 NE 657.

> "Where a Deed to Trustees for the benefit of a Church society contains no expressed declaration of trust for the general body of any Church denomination or for the teaching or practice of any particular religious principles of doctrine or faith, the right to the possession and the use of property is solely in the members of the Church society. It may be that these congregations were subject to the Disciplines of the Reformed Church, but their property was not subject to the control of that Church."

In conclusion, counsel states that the record and statement submitted with Petitioners' Petition clearly and without equivocation demonstrates that at no time in this case was there ever any question about Church Doctrine or the interpretation of Church principles, nor an attempt on the part of these Courts to pass upon con-

troversies over religious doctrine or practice. It was a simple quiet title suit that the Petitioner now attempts to clothe with the question of Constitutional raiment; and it does not fit.

Respectfully submitted,

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